

Minutes

Bar Harbor Town Council

April 15, 2008

- I. CALL TO ORDER** – 7:00 P.M. – In attendance were: Councilors Ruth Eveland, Robert Garland, Paul Paradis, Julia Schloss, Greg Veilleux, Robert Jordan, Jr.; Ken Smith and Town Manager Dana Reed.
- II. APPROVAL OF MINUTES** Councilor Smith, with second by Mr. Paradis, moved to approve the minutes of the April 1, 2008 Regular Meeting as presented. Motion passed 7-0.
- III. ADOPTION OF AGENDA** – Mr. Paradis, with second by Mr. Smith, moved to adopt the agenda as presented. Motion passed 7-0.
- IV. FINANCIAL STATEMENTS** – Mr. Paradis, with second by Mr. Smith, moved to accept and file the March 31, 2008 financial statements as presented in the finance director's memo dated April 4, 2008. Motion passed 7-0.
- V. PUBLIC HEARINGS:**
 - A. Bridge Street** – *Public hearing on whether to discontinue Bridge Street, as laid out in 1871 and taken in 1879 and on what, if any, damages should be paid to abutters.* Mr. Reed briefly explained the error in the 1871 layout of Bridge Street and taken in 1879. There being no public comments, Mr. Paradis, with second by Mr. Garland, moved to adopt and sign the Order to Discontinue Bridge Street 1879 as submitted. Motion passed 7-0.

Order to Discontinue

Town of Bar Harbor
Bridge Street 1879

Following a public hearing on April 15, 2008 and pursuant to 23 M.R.S.A. § 3026, the Bar Harbor Town Council, hereby orders the discontinuance, as a town way and as a public easement, of Bridge Street as laid out in 1871 and taken by Town Meeting in 1879, said discontinuance being subject to ratification by Town Meeting.

Notice of said hearing was given to all potential abutters of the way proposed for discontinuance and to the Bar Harbor Planning Office through the Planning Department Director. Those to whom notice was given included:

- 1. Town of Bar Harbor Planning Board, 93 Cottage Street, Suite 1. Bar Harbor, ME 04609
- 2. Town of Bar Harbor, 93 Cottage Street, Suite 1, Bar Harbor, ME 04609-1400
- 3. Bar Harbor Tennis Club, 111 West Street, Bar Harbor, ME 04609
- 4. Elizabeth D. Hodder, 1 Bridge Street, Bar Harbor, ME 04609
- 5. Jean P. Smith, 115 West Street, Bar Harbor, ME 04609
- 6. Steven S. Raab & Susan J. Raab, 112 West Street, Bar Harbor, ME 04609
- 7. Superfund Site Developers, LLC, 17 Bridge Street, Bar Harbor, ME 04609
- 8. Joan C. Allen, 23 Bridge Street, Bar Harbor, ME 04609
- 9. Walter J. Norwood & Helen L. Norwood, 25 Bridge Street, Bar Harbor, ME 04609

Based on the testimony presented at the hearing, the Town Council finds:

- (1) that best practicable notice of these proceedings, and actual in-person notice, has been given to all abutting land owners and the Planning Board,
- (2) that the 1871 layout of Bridge Street contained a mistake in the description which, unless deemed by a court to be a correctable scrivener's error, established Bridge Street in a location that differs from its current physical location,
- (3) that a road does not currently exist in the location mistakenly described in the 1871 layout,
- (4) that the Town already owns an alternative easement for Bridge Street as it presently exists,
- (5) that the Town is now merely seeking to confirm the correct location of the easement as shown on the survey entitled "Right-of-Way Survey Plan" prepared for the Inhabitants of Bar Harbor by Joseph Coffey and dated May 22, 2007,
- (6) that the Town is simultaneously proceeding with the condemnation of an easement for Bridge street in its current, and originally intended, location,
- (7) that the abutters have frontage on public ways other than the part of the way proposed to be discontinued, and have other, suitable means of access to their properties,
- (8) that the fair market value of the property of the abutters will not be adversely affected by the discontinuance, and
- (9) that the way being discontinued has not been used or maintained by the Town of Bar Harbor since 1871 or earlier, and has therefore been previously abandoned without reservation of a public easement.

ORDERED, Bridge Street be and hereby is discontinued as a town way without reservation of any kind.

BE IT FURTHER ORDERED, that based on the foregoing findings, no damages are to be paid in connection with this Order to Discontinue.

BE IT FURTHER ORDERED, that this Order to Discontinue will take effect only upon ratification by a vote of Town Meeting.

BE IT FURTHER ORDERED, that a copy of this Order shall be filed with the Town Clerk and mailed to the aforementioned Abutters.

B. Special Amusement Permit: ImprovAcadia - *15 Cottage Street, request of Jennifer Shepard and Larrance Fingerhut for a Class 4, Other entertainment or amusement permit.* There being no comments the Chair closed the public hearing. Mr. Smith, with second by Mr. Paradis, moved to approve the Special Amusement Permit renewal for ImprovAcadia as requested. Motion passed 7-0.

VI. REGULAR BUSINESS:

A. Town Meeting: June 2008:

1. *Review and possible signing of the warrant and public hearing notice for annual Town Meeting.* Mr. Paradis, with second by Ms. Schloss, moved to adopt and sign the warrant for Town Meeting as presented. Motion passed, 7-0.
2. *Request of the Town Clerk for the appointment of election clerks for the next two years, in accordance with MRSA Title 21-A 503.1.* - Mr. Smith, with second by Mr. Garland, moved to appoint the list of

election clerks as submitted in accordance with MRSA, Title 21-A 503.1. Motion passed 7-0.

- B. Water & Sewer Fee Commitment** – *Request of the Town Manager for water and sewer fee commitment to the Town Treasurer for collection.* – Mr. Paradis, with second by Mr. Garland, moved to sign the Certificate of Commitment for Water and Sewer Fees. Motion passed 7-0.

C. Board Appointments:

1. Appeals Board – *Possible appointment of an associate member to fill the seat with an expiring term of June 2010.* Mr. Paradis nominated Rachel Moses for the associate member seat of the Appeals Board with an expiring term of June 2010. Rachel Moses was declared appointed by an unanimous vote 7-0.

2. Economic Development Task Force – *Possible appointment to fill a seat designated for a downtown anchor organization.* Mr. Smith nominated Francine Carraro to the Economic Development Task Force to fill a seat designated for a downtown anchor organization. Francine Carraro was declared appointed by an unanimous vote 7-0.

- D. Curb Cut** – *Recommendation of the Parking & Traffic Committee for denial of a request by Oli's Trolley for removal of the first designated parking space west of Main Street on the south side of West Street, to facilitate maneuvering their tour bus.* – Mr. Jordan stated that he had a potential conflict of interest for business reasons as he works for a competitor of Oli's Trolley. Mr. Garland, with second by Ms. Schloss, moved that Mr. Jordan has a conflict of interest in this matter and to recuse him from this agenda item. Motion passed 6-0-1, (Mr. Jordan recused). Mr. Paradis, with second by Mr. Garland, moved to deny the curb cut permit for Oli's Trolley as it does not meet the standards for approval as outlined in the Town Council's Curb Cut Policy. Motion passed 6-0-1, Mr. Jordan recused.

E. Skatepark:

- 1. Report of SkateMDI! on the status of skatepark development.**
Deborah Page, Chair of SkateMDI gave a brief update of the progress of the committee. She also presented a tentative sign to be erected indicating the rules and regulations
- 2. Recommendation of the Parks & Recreation Committee that Council accept the donation of a portable skate ramp and allow its installation at the previously selected location on Park Street, south of the entrance to the YMCA parking lot.** Following much discussion Mr. Paradis, with second by Mr. Garland, moved to accept the donation of a portable skate ramp and approve its installation at the previously selected location on Park Street, south of the entrance to the YMCA parking lot with the following conditions:
 - a. Skate MDI, on behalf of the Town of Bar Harbor, will obtain a building permit for the temporary ramp.**

- b. Skate MDI and any users of the temporary ramp understand that this area is used as a landing zone for Life Flight Helicopter Service. When a landing zone is declared, all users will immediately leave the area as directed by the Fire or Police Departments.
- c. The hours of operation will be from 9am to 8pm.
- d. The ramp will be set up on blocking or posts at the discretion of the Public Works Department.
- e. Skate MDI will enclose both ends of the ramp with rigid insulation which is covered with plywood or particle board.
- f. Skate MDI will supply a means to close down the ramp as approved by the Police and Public Works Departments.
- g. Skate MDI will be responsible for any repairs to the ramp during its period of operation and will maintain the ramp so that it is safe at all times.
- h. Skate MDI will be responsible for loaming and seeding the area upon the ramps removal as directed by the Public Works Department.
- i. Skate MDI and ramp users understand that the Town has the right to close the ramp at any time and/or require its removal.

Mr. Smith, with second by Mr. Paradis, moved the question. Motion passed 7-0.

The main motion passed unanimously, 7-0.

F. Parking & Traffic Committee – *Assessment of the on-street parking for the neighborhood including Wayman Lane, Livingston Road, and Snow, Center and Oliver Streets as requested by Council on January 29.* Nate Young, Chief of Police reported that the hospital is now urging their employees to park at the Maine Street Motel and their new lot near the YMCA to alleviate the parking congestion in the study area. Accordingly, the Committee has recommended that we continue to monitor the situation. No action was taken.

G. Board & Committee Consultations: Design Review – *Discussion of current projects, future plans and any support needed from Town Council.* Members of the Design Review Committee indicated that they are addressing signage for various businesses throughout the Bar Harbor area.

They are having difficulty getting a quorum because of the conflict of interest restrictions in the Ethics ordinance as written. Much discussion of the Ethics ordinance ensued, and it was determined to address the issue of conflict of interest in the ordinance as soon as possible. Roc Caviano of the Design Review Committee urged that any language adopted be very easy for the general public to understand. Mr. Paradis indicated that the

Council should make revising this ordinance a priority. Ms. Eveland stated that it was the Council's intention to support the Committee and thanked them for attending up and making their issues clear.

- H. Taxi License Renewal: CJTL, Inc.** *Clare Bingham, requests taxi cab permits for 5 vans for At Your Service Taxi Co, Airport & Harbor Car Service and Acadia Cab. Approved by Police Chief and proof of insurance provided.* - Mr. Smith, with second by Mr. Paradis, moved to approve the Taxi License Renewal for CJTL, Inc. as requested. Motion passed 7-0.
- I. Good Governance** - *Follow-up review of options for presentation of Good Governance concepts to Town Meeting.* - Ms. Eveland, with second by Mr. Jordan, moved to postpone the completion date of this goal by one calendar year. Motion passed unanimously 7-0.
- J. Property Tax Write-Offs** – *Request of the Town Manager for authority to write-off any residual tax balances of \$10.00 or less.* Mr. Smith, with second by Mr. Paradis, moved to give the Tax Collector and Treasurer the discretionary authority to write off any residual tax balances up to \$10.00. Motion passed unanimously 7-0.
- K. School Reorganization** – *Status report by Council's representative to the Reorganization Planning Committee, Councilor Bob Garland..* Councilor Garland reported that the Regional Planning Committee (RPC) meeting had been postponed because the draft legislation is still unresolved. Nothing can be nailed down because the Legislature is scheduled to adjourn, and what direction it is going to go is still up in the air.
- L. Treasurer's Warrant** – *Request of Treasurer to authorize paid bills.* Mr. Smith, with second by Mr. Paradis moved to sign the Treasurer's Warrant for paid bills. Motion passed 7-0.

VII. COUNCIL COMMENTS AND SUGGESTIONS FOR NEXT AGENDA

Mr. Jordan stated that he already thanked the Design Review Board and felt they have done a lot of hard work, but hoped that their questions and concerns could be addressed.

Mr. Veilleux thanked the Public Works department for their recent cleanup. He also hoped that there will be proper signage directing the public to the school for the Annual Town Meeting.

Ms. Schloss mentioned that her recent Village Connector Trails meeting addressed several issues on Schooner Head and Great Meadows Trails. She mentioned that Town Hill has several enthusiastic people with plans and ideas for the playground and market area.

Mr. Garland asked the question as to whether the various villages are contiguous, as he felt the signs for the Town Hill area on Route 102 should be relocated closer to the Bridge. Mr. Reed responded that the villages are not incorporated so they have no definitive boundaries, other than zoning districts.

Mr. Paradis commented that he was impressed that the Water Division completed all the Cottage Street work in one day. Mr. Reed stated that there might be the possibility that they would again have to come back and do more work on replacing valves which have broken.

Mr. Smith asked the question on Warrants whether the refunded taxes paid are for tax abatements. Mr. Harmon responded, “yes”. Mr. Smith also mentioned that he would be in attendance for the next council meeting, but not the second one scheduled in May.

Ms. Eveland reminded people of the water main work scheduled to start on Mt. Desert Street and the upcoming Planning Board LUO workshop. She also had a final reminder that nomination papers are due to the Town Clerk by April 25th at 5 pm.

VIII. MATTERS FOR POSSIBLE EXECUTIVE SESSION:

A. Personnel Matters – *(To be held in executive session as permitted by 1 MRSA 405.6.A for discussion or consideration of a personnel matter.)* Mr. Paradis, with second by Mr. Smith, moved to enter into executive session at 8:53 p.m., following a five minute break, as permitted by 1 MRSA 405.6.A for discussion or consideration of a personnel matter. Motion passed 7-0. Council entered executive session at 8:59 p.m., and come out of executive session at 9:39 p.m.

B. Mr. Paradis nominated George Seavey to the open seat on the Cruise Ship Task Force. Mr. Seavey was elected unanimously 7-0.

IX. ADJOURNMENT Mr. Smith, with second by Mr. Veilleux, moved to adjourn at 9:40 p.m. Motion passed 7-0.

Paul Paradis, Secretary